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SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 19 APRIL 2023

Present: Councillors M Bunday, Cooper, G Galton, Noon and Vassiliou

27. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED: that the minutes for the Sub-Committee meeting on 24th March 2023 be approved and signed as a correct record.

28. **EXCLUSION OF THE PRESS AND PUBLIC**

The Chair moved that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of item 7 based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein is potentially exempt as it relates to individual personal details and information held under data protection legislation.

RESOLVED: that having applied the public interest test it was not appropriate to disclose this information as the individuals' legal expectation of privacy outweighed the public interest in the exempt information.

29. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

RESOLVED: that at a predetermined point during the consideration of all items the Sub-Committee would move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Council's Access to information Procedure Rules would be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

30. **LICENCE REVIEW FOR AN EXISTING PRIVATE HIRE DRIVER**

The Sub-Committee considered the report of the Executive Director – Communities, Culture and Homes to consider whether a specific individual is a fit and proper person to hold a Private Hire Driver's Licence.

The Licensing Officer, the Private Hire Diver and his legal representative were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in private session in order to receive legal advice when determining issues.

RESOLVED: that the Driver's Private Hire Drivers Licence should be suspended for a period of one month. The Driver is also required to undertake a remedial driver's course at the first available opportunity.

After private deliberation the Sub-Committee reconvened and the Chair read the following decision with reasons:-

The Sub Committee heard evidence relating to the Driver's penalty for using a mobile phone whilst driving a vehicle. It heard that he received 6 penalty points and a fine, however apart from that his record was clean.

In addition, the Sub-Committee heard that an offence had been declared immediately, and therefore within 14 days of conviction in accordance with the Licence conditions.

Convictions for using a held-hand mobile telephone or a hand-held device whilst driving, are always considered seriously and it was noted that ordinarily would lead to the revocation of the licence or a license not being granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

The Sub-Committee agreed that it was important to consider the totality of the evidence in this case. In this case, there were no complaints about the driver, and his driver's licence was clean. This was a 'one-off' offence.

The Sub-Committee must strongly warn the driver that any further conviction or complaint shall be considered alongside those matters already on record. All convictions may be taken into consideration including spent convictions.

The Sub-Committee did consider all of the options available including suspension and revocation. In light of the evidence given by the driver it was felt that revocation would not be appropriate due to the clear remorse shown and determination by the driver to ensure this does not happen again. The Sub-Committee noted the Driver's remorse, and that he did not have a passenger with him while driving.

The Sub-Committee noted that the Driver had 'overlooked' the guidance provided by the Council, and would like to take this opportunity to impress on him the importance of being familiar with the guidance and the effect of breaching it. In this instance, the Sub-Committee accept that this was a one-off offence that the driver is remorseful for, but it is important for the Driver to ensure this does not happen again.

The Sub Committee considered the Human Rights Act 1998 during its deliberation and on legal advice, accepted that personal circumstances, including financial implications, could not be taken into account.

There is a statutory right of appeal against this decision to the Magistrates' Court. Formal notification of the decision will set out that right in full.